



State of Washington School Bond Guarantee Program Administrative Rules



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SCHOOL BOND GUARANTEE PROGRAM BACKGROUND

During the 1999 Legislative Session, the Washington State Legislature passed Senate Joint Resolution 8206, effectively creating a Washington State School District Credit Enhancement Program (Guarantee Program). The Guarantee Program's purpose is to provide savings to state taxpayers by pledging the credit of the state to the payment of voter-approved School District general obligation bonds.

The approved legislation carries two components: 1) a constitutional amendment to clarify that the state is pledging its full faith and credit to bonds issued under the program; and 2) implementing language for the Guarantee Program. Since the program authorization required a constitutional amendment, the proposed law was submitted to a vote of the electorate. Washington voters passed the constitutional amendment in November 1999 by a vote of 60% to 40%. The Guarantee Program is authorized in chapter 39.98 RCW.

The Guarantee Program was developed under the direction of the State Treasurer. The State Treasurer convened an Advisory Group to assist in legal drafting, policy discussions and legislative strategy. The Advisory Group included staff members from the Office of the State Treasurer, state-wide School District representatives, an assistant attorney general, bond lawyers and financial advisors.

DEFINITIONS

SECTION 1. DEFINITIONS

For purposes of this rule, the following definitions shall apply:

“Act” means the Washington State School District Credit Enhancement Program Act, pursuant to chapter 39.98 RCW.

“Application” means an application requesting the state treasurer to issue a Certificate of Eligibility pursuant to RCW 39.98.040.

“Authorized District Official” means any individual designated as such by resolution provided for in Section 2.

“Bond” means any voted general obligation bond issued by a School District holding a certificate issued pursuant to the Act, and any general obligation bond issued by a School District holding a certificate issued pursuant to the Act to refund outstanding voted general obligation bonds of that School District.

“Capital Projects Fund” means the fund created pursuant to RCW 28A.320.330.

“Certificate of Eligibility” means a certificate issued by the State Treasurer pursuant to Section 4 of the Act.

“County Assessor” means the County Assessor(s) in the county or counties in which the requesting School District is located.

“County Treasurer” means the County Treasurer of the requesting School District.

“Guarantee Program” means the Washington State School District Credit Enhancement Program established by the Act.

“Nationally Recognized Bond Counsel Firm” means a bond counsel firm listed in the most recent publication of *The Bond Buyer’s Municipal Market Place*.

“Paying Agent” means the paying agent selected, from time to time, for a bond issue pursuant to State law.

“School District” or **“District”** means any school district or its successor under the laws of the State.

“State” means the State of Washington.

APPLYING TO THE GUARANTEE PROGRAM

SECTION 2. APPLICATION FOR CERTIFICATE OF ELIGIBILITY

School Districts may apply for a Certificate of Eligibility at any time during the year by filing the Application with the State Treasurer. Such an Application, however, must be submitted to the State Treasurer no less than thirty days prior to sale of bonds for which the guarantee, if granted, will apply. Applications, and all other written communications pursuant to the Guarantee Program, shall be addressed to the School Bond Guarantee Program, Office of the State Treasurer, Legislative Building, 2nd Floor, P.O. Box 40200, Olympia, Washington 98504-0200. The Application shall include:

- The name, county, and District number (if applicable) of the requesting School District;
- The name of the Authorized District Official for the requesting School District;
- The name of the underwriter, if known, financial advisor (if any) and bond counsel assigned to the financing of the requesting School District to which the guarantee will apply;
- The mailing address, phone number, fax number, and e-mail address (if applicable) of the requesting School District;
- A copy of the District's Ballot Proposition Resolution, showing details of the special election (date, amount, ballot title) at which the bonds were approved by the voters;
- The not-to-exceed amount the District is currently requesting be guaranteed pursuant to its Application;
- An allocation report in the form provided by the State Treasurer, identifying, by ballot issue, the principal amount of any bonds previously issued pursuant to the ballot proposition resolution(s) authorizing the bonds, plus any net original issue premium associated with such previously issued bonds that was deposited in the Capital Projects Fund and any remaining authority to issue bonds pursuant to such ballot proposition resolution(s);
- A copy of the resolution passed by the School District's board of directors (which may be the same resolution as the District's Ballot Proposition Resolution) authorizing the Application for a Certificate of Eligibility;
- A certificate signed by an Authorized District Official:
 - Stating whether the School District has any bonds, the principal of or interest on which has been paid by the State under the Act, and for which there remain outstanding any payment obligations of the District to the State;
 - Stating that the School District is, and will remain, in compliance with these administrative rules as currently set forth or later amended; and
 - Attesting to the accuracy and completeness of the materials provided.
- A non-refundable Application processing fee of \$100; and
- Any additional materials that may be required by the Office of the State Treasurer in support of the Application for participation in the Guarantee Program.

In addition to the above requirements, any Application that includes Bonds to be refunded must also provide a copy of the ballot resolution(s) relating to each series of Bonds to be refunded.

STATE REVIEW AND APPROVAL UNDER THE GUARANTEE PROGRAM

SECTION 3. REVIEW OF APPLICATION FOR CERTIFICATE OF ELIGIBILITY

Upon receipt of an Application for a Certificate of Eligibility, the State Treasurer will determine whether all items listed in Section 2 have been provided and will notify the District no later than five business days after receipt if the Application is incomplete. In determining the School District's eligibility under the Guarantee Program, the Office of the State Treasurer may request additional information from the School District, as well as from any other person or entity.

SECTION 4. ISSUANCE OF CERTIFICATE OF ELIGIBILITY

Upon determining that a School District is eligible to participate in the Guarantee Program, the State Treasurer will issue a Certificate of Eligibility to the School District. The Certificate of Eligibility shall:

- Evidence the School District's immediate qualification for the Guarantee Program;
- Be valid for one year from the date of its issuance; and
- Be valid only for those Bonds approved under the certified special election(s) specified by the School District in its Application for a Certificate of Eligibility.

SECTION 5. DENIAL OF ELIGIBILITY/DETERMINATION OF ELIGIBILITY

The State Treasurer may deny a School District's Application for a Certificate of Eligibility and issue a Determination of Ineligibility pursuant to Chapter 39.98.040 RCW, if:

- The School District fails to meet the provisions outlined in the Act or any of the requirements outlined in these rules;
- The State has ever paid, pursuant to the Guarantee Program, any principal of or interest on any of the School District's Bonds; and
 - The associated payment obligations of the District to the State are not satisfied; or
 - The State Treasurer and the State Superintendent of Public Instruction, are unable to certify, in writing, that the School District is Fiscally Solvent.

The State Treasurer may deny a District's Application at his or her sole discretion.

SECTION 6. DETERMINATION OF FISCAL SOLVENCY

"Fiscally solvent" when used for the purposes of any certification required by the Act and these rules with respect to the financial condition of a School District seeking to participate in the Guarantee Program, means that it is reasonably expected that the School District will be able to satisfy all principal and interest requirements of Bonds guaranteed and proposed to be guaranteed by the State under the Guarantee Program, in the opinion of the person making such determination after giving due consideration to:

- The principal and interest requirements of all outstanding voted general obligation Bonds of the School District and of all outstanding Bonds issued to refund voted general obligation Bonds of the School District;
- A School District's past record of collecting voter-approved excess property taxes and reasonable expectations concerning future collections of voter-approved excess property taxes as required to meet those principal and interest requirements; and
- Such additional financial circumstances, if any, of the School District that such person considers to be material.

USING THE CERTIFICATE TO ISSUE BONDS

SECTION 7. INFORMATION TO BE PROVIDED TO THE STATE TREASURER BEFORE ISSUANCE OF A FINAL CERTIFICATE

The School District shall provide a copy of the final official statement for the Bonds to which the guarantee was applied, promptly upon its publication. The School District shall provide to the State Treasurer at the time of closing:

- A copy of the Bond Resolution as adopted by the Board of Directors of the School District, or a Bond Purchase Agreement that states the final terms of the Bonds;
- An allocation report, identifying by ballot issue, the principal amount of any Bonds issued pursuant to the ballot proposition resolution(s) authorizing the Bonds, plus any net original issue premium associated with such issued Bonds that was deposited in the Capital Projects Fund and any remaining authority to issue Bonds pursuant to the ballot proposition resolution(s); and
- A letter addressed to the State Treasurer signed by the School District's Nationally Recognized Bond Counsel Firm stating that the State Treasurer may rely upon such Firm's approving legal opinion with respect to the Bonds as if that opinion were addressed to the State Treasurer.

If all of the above information has been received, on the date of the Bond closing, the State Treasurer will provide a certificate evidencing the State's guarantee for use by the School District that reflects its compliance with these requirements.

SECTION 8. REFERENCE TO GUARANTEE IN SCHOOL DISTRICT BOND DOCUMENTS

School Districts that issue Bonds under a Certificate of Eligibility shall evidence the State's guarantee of the School District's Bonds in a form to be provided by the State Treasurer and placed:

- On the cover of the School District's preliminary official statement(s) and official statement(s), or other offering document(s), for the applicable Bond(s);
- On the face of the School District's applicable Bond(s); and
- As an appendix with the official statement(s), or other offering document(s), for the applicable Bond(s).

The State Treasurer will provide, and any School District relying on the State's guarantee must use, the description of the State's guarantee in the School District's offering document. The description must be used in its entirety and may not be modified or amended.

Any modification or amendment may result in a denial of future Applications for eligibility by the District. It is incumbent upon each District to check the State Treasurer's web site for the most current description.

SECTION 9. RATINGS

The Office of the State Treasurer will undertake to have the Washington School Bond Guarantee Program rated by at least one of the following: Standard & Poor's, Moody's Investors Service, or Fitch Ratings. Any School District proposing to issue Bonds under the Guarantee Program may:

- Engage, at its own expense, one or more of the rating agencies to apply the rating of the Guarantee Program to its Bonds; and
- At its discretion, and at its own expense, choose to obtain an underlying rating on the Bonds.

NOTICES TO THE STATE TREASURER OF INSUFFICIENT FUNDS

SECTION 10. NOTIFICATION BY DISTRICT OF INSUFFICIENT FUNDS

At least seven business days before a scheduled debt service payment is due, a District that has issued Bonds under a Certificate of Eligibility must confirm that sufficient funds will be available to make the scheduled debt service payment. If the District determines that insufficient funds are available to make the scheduled debt service payment, the District must notify the State Treasurer at least seven business days prior to its due date. Such notice shall be made to the office of the State Treasurer as follows:

- By telephone: 360-902-9000; and
- By e-mail: SchoolBondGuarantee@tre.wa.gov.

Failure to make this notification may result in a denial of future Applications for eligibility.

SECTION 11. COUNTY TREASURER NOTICE TO STATE TREASURER OF INSUFFICIENT FUNDS

Upon determining that a timely transfer of all required funds to the Paying Agent for scheduled debt service payments on guaranteed Bonds cannot be made, the County Treasurer shall immediately provide notice to the State Treasurer and to the Paying Agent pursuant to RCW 39.98.050. Such notice shall be made to the Office of the State Treasurer as follows:

- By telephone: 360-902-9000;
- By facsimile: 360-902-9045 or by e-mail: SchoolBondGuarantee@tre.wa.gov; and
- By first class mail: Attn: School Bond Guarantee Program, Office of the State Treasurer, Legislative Building, 2nd Floor, P.O. Box 40200, Olympia, Washington 98504-0200.

SECTION 12. PAYING AGENT NOTICE TO STATE TREASURER OF INSUFFICIENT FUNDS

If sufficient funds are not transferred to the Paying Agent at the time or times required to make scheduled debt service payments on guaranteed Bonds of a School District, the Paying Agent shall immediately notify the State Treasurer as follows:

- By telephone: 360-902-9000;
- By facsimile: 360-902-9045 or by e-mail: SchoolBondGuarantee@tre.wa.gov; and
- By first class mail: Attn: School Bond Guarantee Program, Office of the State Treasurer, Legislative Building, 2nd Floor, P.O. Box 40200, Olympia, Washington 98504-0200.

SCHOOL DISTRICT REPAYMENT TO STATE

SECTION 13. REPAYMENT TO THE STATE BY SCHOOL DISTRICTS

Each School District is responsible for paying in full the principal of and interest on its Bonds guaranteed by the State under the Guarantee Program. The State Treasurer shall recover from the District any funds paid by the State on behalf of a School District under the Guarantee Program along with any interest or penalties by any means authorized pursuant to the Act or any other method permitted by law.

SECTION 14. INTEREST ON SCHOOL DISTRICT OBLIGATIONS TO STATE

The State Treasurer may charge interest in connection with the recovery of funds under chapter 39.98 RCW. Any interest charged will be in a manner consistent with chapter 39.98 RCW. Interest will be determined after taking certain factors into account such as: the circumstances of any prior draws by the District on the State, market interest and penalty rates, and the cost of funds or opportunity cost of investments.

SECTION 15. PENALTY FOR STATE PAYMENT UNDER GUARANTEE PROGRAM

The State Treasurer may, after taking into account the circumstances giving rise to the failure of the District to make payments on its Bonds in a timely manner, impose a penalty consistent with RCW 39.98.060.

COMPLIANCE AND EXCEPTIONS

SECTION 16. FAILURE TO COMPLY WITH THIS CHAPTER

Failure to comply with the provisions of this chapter may result in denial of a future Application for eligibility under the Guarantee Program.

SECTION 17. EXCEPTIONS

The State Treasurer may, in his or her discretion, waive any or all provisions of this chapter to the extent provided by law.

Statutory Authority: Chapter 39.98 RCW